

### **REMARKS**

The paper is in response to the Office Action mailed February 5, 2009 ("the Office Action"). The foregoing amendment cancels claims 5, 7, and 8 and amends claims 1, 6, and 14. Claims 1-4, 6, and 9-21 remain pending in view of the amendments. Applicants respectfully request reconsideration of the application in view of the above amendments to the claims and the following remarks. For Examiner's convenience and reference, Applicants present remarks in the order that the Office Action raises the corresponding issues.

In connection with the prosecution of this case and any related cases, Applicants have, and/or may, discuss various aspects of the disclosure of the cited references as those references are then understood by the Applicants. Because such discussion could reflect an incomplete or incorrect understanding of one or more of the references, the position of the Applicants with respect to a reference is not necessarily fixed or irrevocable. Applicants thus hereby reserve the right, both during and after prosecution of this case, to modify the views expressed with regard to any reference.

Please note that Applicants do not intend the following remarks to be an exhaustive enumeration of the distinctions between any cited references and the claims. Rather, Applicants present the distinctions below solely by way of example to illustrate some of the differences between the claims and the cited references. Finally, Applicants request that Examiner carefully review any references discussed below to ensure that Applicants' understanding and discussion of any reference is consistent with Examiner's understanding.

Unless otherwise explicitly stated, the term "Applicants" is used herein generically and may refer to a single inventor, a set of inventors, an appropriate assignee, or any other entity or person with authority to prosecute this application.

### **Rejection Under 35 U.S.C. §102**

The Office Action rejects claims 1-4, 6, and 9-21 under 35 U.S.C. §102(b) over *Anderson et al.* (U.S. Patent No. 5,850,388). According to MPEP §2131, a claim is anticipated under 35

U.S.C. §102(a), (b), or (e) only if each and every element as set forth in the claim is found, either expressly or inherently, in a single prior art reference. The reference must show the identical invention in as complete detail as is contained in the claim. Finally, the elements must be arranged or combined as required by the claim.

Claims 1, 6, and 14 are independent claims and have each been amended to require at least the detection of a switch during when the network topology is determined. The specification discloses many different methods for switch detection as well as loop detection (see claims 1 and 14). The Examiner notes that at col. 11, lines 57-67, Anderson discusses the creation of a list of entries corresponding to source addresses of the various frames and the addition of a source address not previously found. The Examiner has not established that these source addresses includes switches or that Anderson otherwise develops topologies including switches, loops, and/or the locations of such devices in the topologies or presents this developed topology to the user. As such, the Applicant respectfully requests that the rejections of claims 1, 6, and 14 be withdrawn. Claims 2-4 depend from claim 1, claims 9-12 and 21 depend from claim 6, and claims 14-20 depend from claim 14. Therefore the Applicant respectfully requests that the rejections of the dependent claims be withdrawn at least for the same reasons as the independent claim from which they depend..

### **Charge Authorization**

The Commissioner is hereby authorized to charge payment of any of the following fees that may be applicable to this communication, or credit any overpayment, to Deposit Account No. 23-3178: (1) any filing fees required under 37 CFR § 1.16; (2) any patent application and reexamination processing fees under 37 CFR § 1.17; and/or (3) any post issuance fees under 37 CFR § 1.20. In addition, if any additional extension of time is required, which has not otherwise been requested, please consider this a petition therefor and charge any additional fees that may be required to Deposit Account No. 23-3178.

**CONCLUSION**

In view of the foregoing, Applicants submit that the pending claims are allowable. In the event that Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview or overcome by an Examiner's Amendment, Examiner is requested to contact the undersigned attorney.

Dated this 3rd day of June, 2009.

Respectfully submitted,

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